

STATE WATER CONTROL BOARD ENFORCEMENT ACTION

SPECIAL ORDER BY CONSENT

ISSUED TO

CAMPBELL'S SEPTIC TANK CLEANING, INC.

SECTION A: Purpose

This is a Special Order by consent issued under the authority of Va. Code § 62.1-44.15(8a) and (8d) between the State Water Control Board and Campbell's Septic Tank Cleaning, Inc., to resolve certain violations of environmental laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meanings assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 62.1-44.7 and 10.1-1184.
3. "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the DEQ.
5. "VRO" means the Valley Regional Office of the DEQ.
6. "Campbell's" means Campbell's Septic Tank Cleaning, Inc.

7. "Order" means this document, also known as a Consent Special Order.
8. "NOV" means Notice of Violation.

SECTION C: Findings of Fact and Conclusions of Law

1. Campbell's owns and operates a septage pumping, storage and treatment facility under the terms of a permit issued by the Central Shenandoah Health District. The permit authorizes tank storage, stabilization and land application of septage. The permit and State Water Control Law prohibit the discharge of septage to waters of the state. Campbell's owns the land application site covered under its Central Shenandoah Health District permit.
2. On August 26, 2003, a citizen reported what was suspected of being septage in the South River near Greenville in Augusta County. The complainant indicated that the site was near Campbell's septage land application site.
3. In response to the citizen complaint, on August 26, 2003, staff of DEQ and the Central Shenandoah Health District conducted an investigation at Campbell's septage land application site. Staff observed a tank truck actively spreading septage on the land application site. Staff observed that the field receiving septage sloped toward the South River. DEQ staff photographed septage entering (discharging into) the South River. DEQ staff took in-stream measurements and collected samples of water from the stream; however, DEQ did not document any significant impacts to the receiving stream including the benthic community.
4. On September 3, 2003, DEQ issued NOV No. W2003-09-V-9001 to Campbell's citing the following apparent violations of State Water Control Law:
 - (a) Unauthorized Discharge – Va. Code § 62.1-44.5.A:

Except in compliance with a certificate (permit) issued by the Board, it shall be unlawful for any person to: discharge into state waters sewage, industrial wastes, other wastes, or any noxious or deleterious substance; or, otherwise alter the physical, chemical or biological properties of such state waters and make them detrimental to the public health, or to the animal or aquatic life, or to the uses of such state waters for domestic or industrial consumption, or for recreation, or for other uses.
5. On September 2, 2003, the Central Shenandoah Health District issued an NOV to Campbell's for violation of that agency's Septage Storage and Treatment Facility Permit.
6. By letter dated September 23, 2003, Campbell's submitted a plan of action to prevent recurrence of the apparent violations. The plan has been incorporated into Appendix A of the

Order. The Order also provides for the assessment of a civil charge in settlement of the apparent violations.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders Campbell's, and Campbell's agrees:

1. To perform the actions described in Appendix A of this Order; and,
2. To pay a civil charge of **\$5,000** within 30 days of the effective date of the Order in settlement of the violations cited in this Order. Payment shall be by check, certified check, money order, or cashier's check payable to "Treasurer of Virginia" and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

Campbell's shall include its Federal Identification Number with the civil charge payment and shall note on the check that the payment is being made pursuant to this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Campbell's, for good cause shown by Campbell's, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Campbell's admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Campbell's declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of,

any action taken by the Board to enforce this Order.

5. Failure by Campbell's to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
6. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
7. Campbell's shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Campbell's shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Campbell's shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and,
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which Campbell's intends to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

8. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
9. This Order shall become effective upon execution by both the Director or his designee and Campbell's. Notwithstanding the foregoing, Campbell's agrees to be bound by any compliance date which precedes the effective date of this Order.
10. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Campbell's. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Campbell's from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

11. By its signature below, Campbell's voluntarily agrees to the issuance of this Order.

And it is so ORDERED this _____ day of _____, 2004.

Robert G. Burnley, Director
Department of Environmental Quality

Campbell's voluntarily agrees to the issuance of this Order.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing document was signed and acknowledged before me this _____ day of _____, 2003, by _____, who is
(name)

_____ of Campbell's Septic Tank Cleaning, Inc., on behalf of the Corporation.
(title)

Notary Public

My commission expires: _____.

**APPENDIX A
SCHEDULE OF COMPLIANCE**

CAMPBELL'S SEPTIC TANK CLEANING, INC.

1. Following the date of Campbell's signature of the Order, prior to any land application of septage, Campbell's shall have a detailed consultation with all septage haulers concerning the requirements of DEQ, the Virginia Department of Health (Central Shenandoah Health District) and Campbell's Septic Tank Cleaning, Inc., to ensure proper land application and prevention of runoff. Campbell's shall maintain a log of these consultations recording the date of the consultation and those in attendance. Campbell's shall make the log available for review by staff of DEQ and the Central Shenandoah Health District upon request.
2. Campbell's shall comply with the following septage application rates:
 - a. Septage application rates shall not exceed 0.5 inches in any single pass. This is equivalent to 13, 500 gallons per acre or 1,000 gallons on an area 10 feet wide by 100 yards long.
 - b. There shall be no more than 30,000 gallons per acre applied in any one year and this rate may occur only one year out of every three.
3. Campbell's shall maintain buffer zones as follows:

SETBACK FROM	SURFACE APPLIED	INCORPORATED INTO SOIL
Stream	50 ft.	25 ft.
Property Lines	100 ft.	100 ft.
Roads	50 ft.	25 ft.
Dwellings	200 ft.	100 ft.
Wells	100 ft.	100 ft.
Rock Outcrops	25 ft.	25 ft.